

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Antwaun T. Stevenson,)
Plaintiff,) C.A. No. 2:11-879-TMC
v.)
Darlington County Detention Center,)
and Director Stanley, c/o the)
Detention Center,)
Defendants.)

This matter is before the court on the Magistrate Judge's Report and Recommendation (Dkt. # 24). Plaintiff, Antwaun T. Stevenson ("Plaintiff"), proceeding *pro se* and *in forma pauperis*, brings this action pursuant to 42 U.S.C. § 1983. The Magistrate Judge's Report and Recommendation, filed on February 23, 2012, recommends that the action be dismissed with prejudice for failure to prosecute and for failure to comply with this court's orders. (Dkt. # 24). The Report and Recommendation sets forth in detail the relevant facts and legal standards on this matter, and the court incorporates the Magistrate Judge's recommendation herein without a recitation.

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific

objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

In the absence of objections to the Magistrate Judge's Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report and Recommendation results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

The Magistrate Judge originally filed a Report on April 25, 2011, recommending that the Complaint in this case be dismissed without prejudice and without issuance and service of process. (Dkt. # 9). Plaintiff timely filed objections to the Report. (Dkt. # 11). On October 26, 2011, the court declined to adopt the Report and interpreted Plaintiff's Objections as a Motion to Amend his Pleadings. Plaintiff was granted twenty (20) days to file an Amended Complaint, and warned that failure to do so would result in the case being dismissed pursuant to Rule 41(b), Fed. R. Civ. P., for failure to comply with the court orders. Plaintiff has failed to file an Amended Complaint.

Furthermore, on April 25, 2011, the Magistrate Judge ordered Plaintiff that he was to advise the court, in writing, of any change of address and that failure to do so would not be excused by the court. (Dkt. # 7). Mail sent to Plaintiff at his last known address has been

returned to the Court marked as "No Longer Here." (Dkt. # 18).

On February 23, 2012, the Magistrate Judge filed the instant Report recommending that this action be dismissed with prejudice for lack of prosecution and for failure to comply with this court's orders. Plaintiff was advised of his right to file objections to the Report. (Dkt. # 24 at 3). However, Plaintiff filed no objections to the Report and Recommendation. Based on the foregoing, it appears the Plaintiff no longer wishes to pursue this action.

Accordingly, this action is **DISMISSED** with prejudice for lack of prosecution and for failure to comply with this court's orders, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir.1982). *See Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989).

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

Greenville, South Carolina
March 20, 2012

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.